

EXHIBIT BB

Condensed Transcript of

Wojciechowski, Daniel E. (Vol. 01) - 12/18/2008

Monday, March 16, 2009, 4:37:08 PM

Condensed Transcript of Wojciechowski, Daniel E. (Vol. 01) - 12/18/2008
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DELL - Texas

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2
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE WESTERN DISTRICT OF TEXAS
5 AUSTIN DIVISION
6
7 HITUL GANDHI, individually)
8 and on behalf of a class of)
9 others similarly situated,)
10 Plaintiff,)
11 vs.) No. A-08-CA-248-JRN
12)
13)
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15)
16)
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20)
21)
22)
23)
24)
25)

15 CATHERINE L. DAVIS and TOMMY)
16 MOORE, Individually and on)
17 Behalf of others similarly)
18 situated,)
19 vs.) No. A-08-CA-794-JRN
20)
21)
22)
23)
24)
25)

19 DELL, INC. d/b/a DELL)
20 COMPUTER, INC., a Delaware)
21 corporation, DELL USA L.P.,)
22 a Texas Limited Partnership)
23 and DELL MARKETING L.P., a)
24 Texas Limited Partnership,)
25 Defendant.)

Page 3

1 A P P E A R A N C E S
2 For the Plaintiff: Nicholas G. Farha
3 Attorney at Law
4 10205 North Pennsylvania
5 Oklahoma City, Oklahoma 73120
6
7 For the Witness: Matt Dameron
8 Attorney at Law
9 460 Nichols Road
10 Suite 200
11 Kansas City, Missouri 64112
12
13 For the Defendant: Michael W. Fox
14 Attorney at Law
15 301 Congress Avenue
16 Suite 1250
17 Austin, Texas 78701
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2
3 DEPOSITION OF DANIEL E. WOJCIECHOWSKI
4 TAKEN ON BEHALF OF THE DEFENDANTS
5 IN OKLAHOMA CITY, OKLAHOMA
6 ON DECEMBER 18, 2008
7
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13 Reported by: Elizabeth Caudill, CSR, RMR, CRR
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1 (Defendant's Exhibit Number 3 marked
2 for identification purposes and made a
3 part of the record)
4 Q (By Mr. Fox) Let me show you what's
5 been marked as Exhibit 3. And these are slides
6 from a PowerPoint presentation.
7 And let me ask you if you ever remember
8 seeing either this presentation or one that looks
9 similar to Deposition Exhibit 3.
10 A Just look through all of it?
11 Q Yes. I think there's four or five
12 pages.
13 A Have I ever seen this?
14 Q Or something that was very similar to
15 it.
16 A No. Huh-uh.
17 Q Have not?
18 A No. No.
19 (Defendant's Exhibit Number 4 marked
20 for identification purposes and made a
21 part of the record)
22 Q (By Mr. Fox) Did you ever do any work
23 from home when you were working at Dell or was it
24 always just at the office?
25 A It was always at the office.

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1 receive?
2 A They appear to be.
3 Q How did you get these? Were these
4 direct deposits?
5 A You know, I was trying to think about
6 that the other day, whether they were mailed to
7 me or whether they were direct deposit. I
8 believe I had direct deposit, I believe.
9 Q Did you receive a copy or have online
10 access to your pay stub, the bottom part of this?
11 A I did have access to that. Now, I
12 don't recall receiving the printouts, you know,
13 with the breakdown of everything in it at all,
14 but I did receive -- I did have access through
15 KRONOS with that.
16 Q And did you go and check it out from
17 time to time?
18 A Not really. Not really. First time I
19 saw my paycheck and I was, you know -- and I
20 got -- I got paid my overtime at this rate, I
21 kind of got a little discouraged, actually,
22 and -- and really didn't -- didn't dwell in it --
23 on it.
24 I didn't want to bring -- I didn't want
25 negativity creeping into it. I wanted it all to

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1 Q Did you have any way of accessing any
2 information from home?
3 A No. Well, let me rephrase that. There
4 was probably a way to do that but, you know, by
5 the time I got home, you know, I'd spent, you
6 know, 12 to 14 hours at work. I wasn't about to
7 spend any more time --
8 Q Gotcha.
9 A -- trying to do anything else, you
10 know, Dell-wise.
11 Q Let me show you what's been marked as
12 Exhibit 4 and ask you -- this is copies of
13 paychecks.
14 A Okay.
15 Q Ignore for a moment the handwritten
16 information that's put on there. That was put on
17 by someone in my office. But ignoring that for a
18 moment --
19 A Uh-huh.
20 Q -- can you tell me if this is a copy of
21 your paychecks for the weeks that are indicated
22 and the pay stubs that you would have gotten?
23 A And your question is?
24 Q Are these copies of the pay stubs
25 that -- or the deposit advice that you would

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1 be positive so that I could, you know, continue
2 to sell at that -- at that level.
3 Q Turn to the second page of Deposition
4 Exhibit 4. And I think that it's got a Dell
5 number 2138 on it.
6 Let me just walk you through this
7 calculation for a moment and see if it makes
8 sense to you.
9 See on the handwritten comment where it
10 says biweekly pay equals 834.62?
11 A I see that.
12 Q Is that how you were paid, on a
13 bi-weekly basis, every two weeks?
14 A Yes.
15 Q Do you see where the 834.62 figure is
16 reflected down on the -- under "current amount"
17 on salary non-exempt? Right over --
18 A Okay.
19 Q Do you see that?
20 A I see that.
21 Q And is salary non-exempt, was that a
22 term that you heard while you were at Dell?
23 A No. I mean, it wasn't.
24 Q Doesn't ring a bell?
25 A No.

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1 A Definitely not.
2 Q Okay. You can set that aside.
3 Regarding the base salary that you
4 received from Dell while you worked as a business
5 sales representative, what was your understanding
6 of how many hours you had to work to receive that
7 salary?
8 A Well, 40. A minimum of 40 hours per
9 week, 80 per check.
10 Q And what was your understanding of what
11 you would get paid if you did not work 40 hours a
12 week?
13 A I assumed you'd get that -- the amount
14 of hours that you put in.
15 Q Okay. And just to confirm, your dates
16 of employment were from July of 2005 to January
17 2006; correct?
18 A That is correct.
19 Q If you would turn to Defendant's
20 Exhibit Number 2, which is this PowerPoint
21 presentation, this appears to apply to the fiscal
22 year for 2005; correct?
23 A That's correct.
24 Q And if you turn to the second page of
25 the exhibit marked Dell 1793, the top slide, you

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1 (ec)
2 J U R A T P A G E
3
4 I, DAN WOJCIECHOWSKI, do hereby state under oath that I
5 have read the above and foregoing deposition in its
6 entirety and that the same is a full, true and correct
7 transcript of my testimony so given at said time and
8 place, except for the corrections noted.
9
10
11 _____
12 DAN WOJCIECHOWSKI
13
14 Subscribed and sworn to before me, the
15 undersigned Notary Public in and for the State of
16 Oklahoma, by said witness _____, on this the
17 ____ day of _____, 2008.
18
19 _____
20 Notary Public
21
22 My Commission expires: _____
23
24
25

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1 can see it says "Dell, Inc." It's italicized
2 under the caption.
3 "Dell, Inc., fiscal year 2005, January
4 31, 2004 to January 28, 2005."
5 Did I read that correctly?
6 A That's what I'm seeing.
7 Q Okay. So based on this, you know, does
8 that help refresh your recollection of whether
9 you would have seen this document?
10 A No.
11 MR. DAMERON: I have no further
12 questions.
13 MR. FARHA: No questions.
14 REDIRECT EXAMINATION
15 BY MR. FOX:
16 Q Just a couple. You said you would
17 assume you would get the hours that you worked.
18 Was that just based on your prior work history as
19 to how you'd been paid in the past?
20 A Yes, sir.
21 MR. FOX: Nothing further.
22 MR. DAMERON: Read and sign.
23
24
25

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1 D & R
2 REPORTING & VIDEO, INC.
3 Robinson Renaissance
4 119 N. Robinson, Suite 650
5 Oklahoma City, Oklahoma 73102
6 (405) 235-4106
7 FAX (405) 235-4115
8 CORRECTION SHEET
9 Case Style: Gandhi vs. Dell
10 Reporter: EC
11 Witness: DAN WOJCIECHOWSKI
12 Date Reported: DECEMBER 18, 2008
13 Attorney: Michael Fox
14 OA: Matt Dameron, Nicholas Farha
15 Page Line Correction Reason
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